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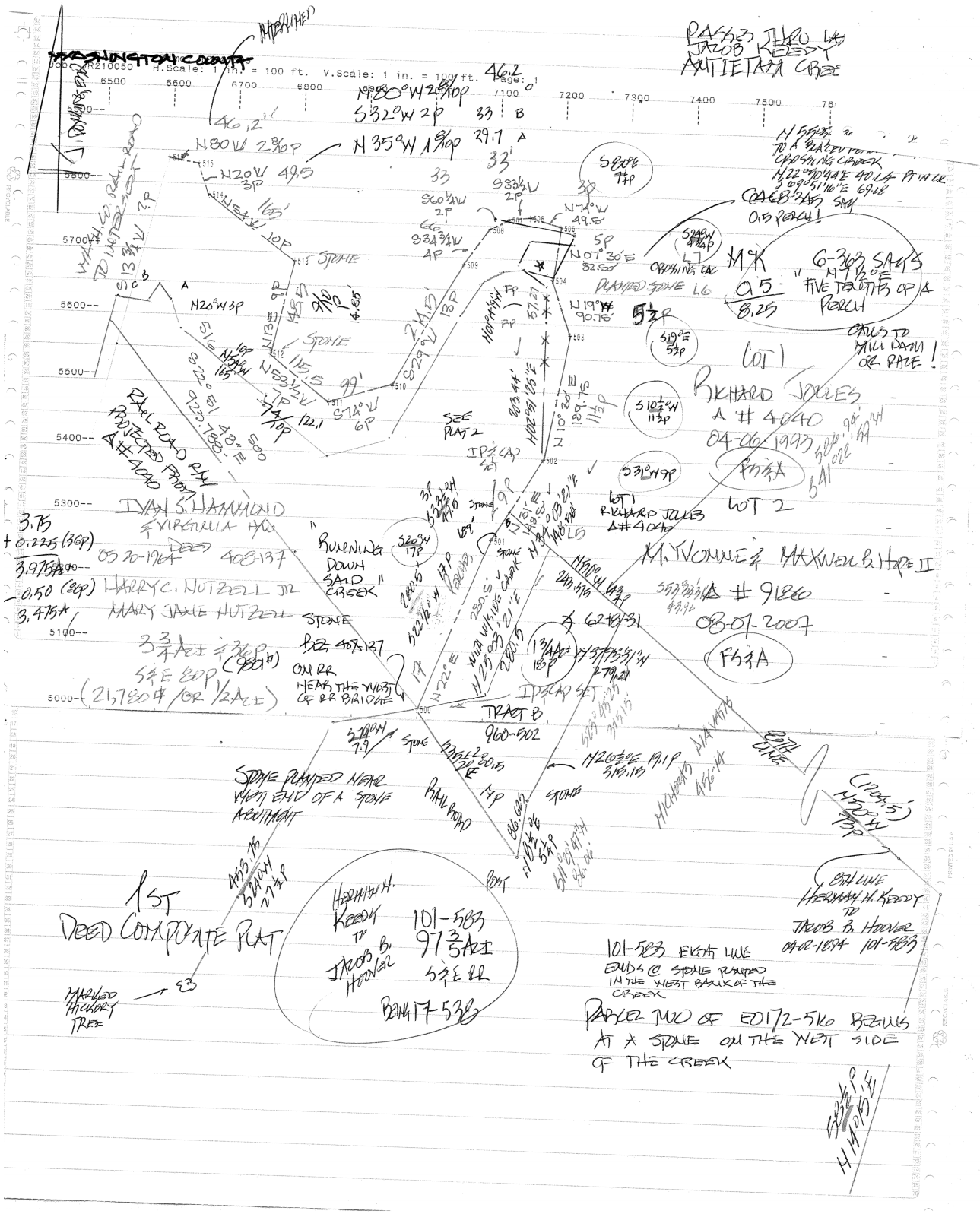
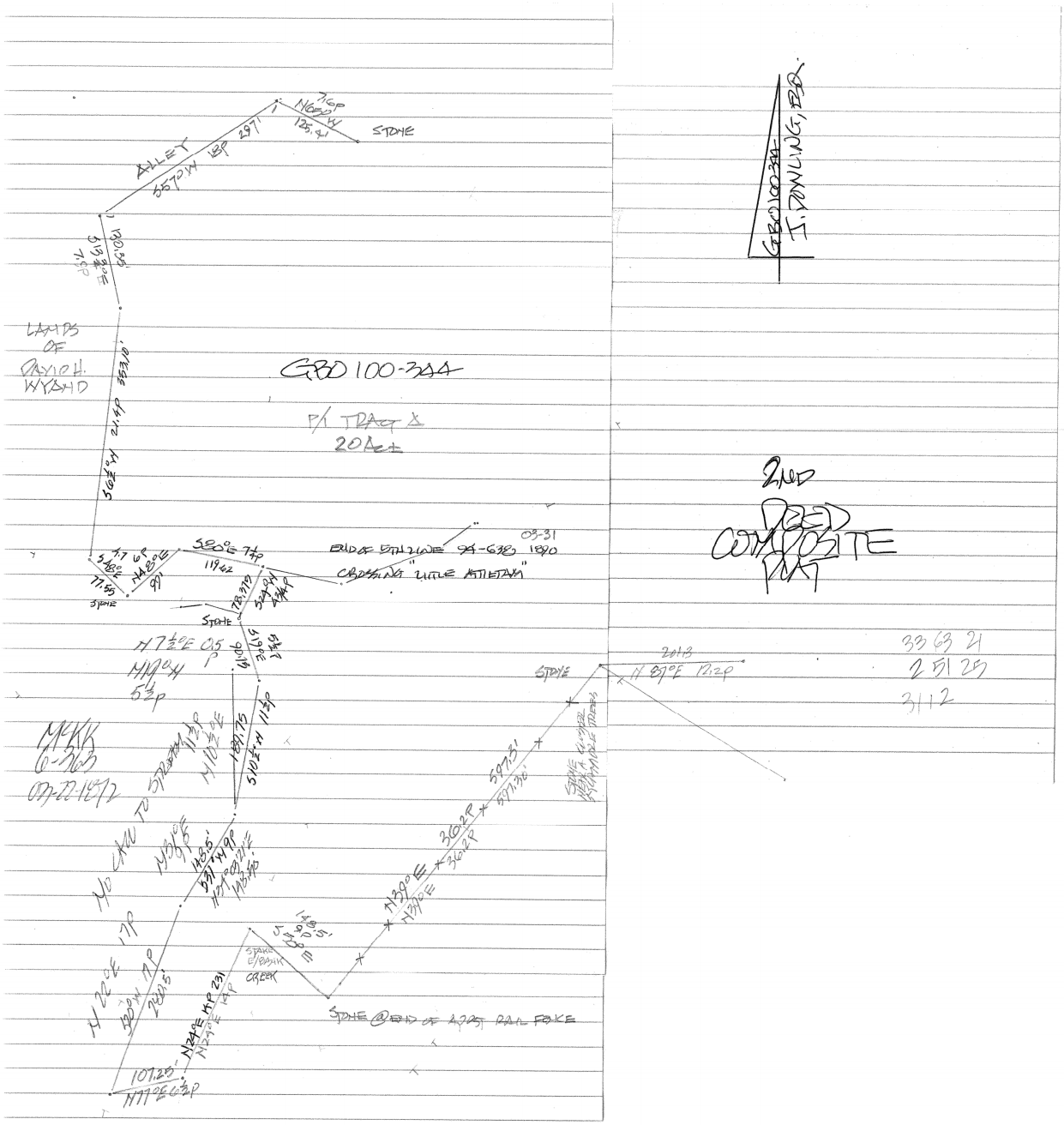
Appellate Court of Maryland
7/12/2023 12:02 AM

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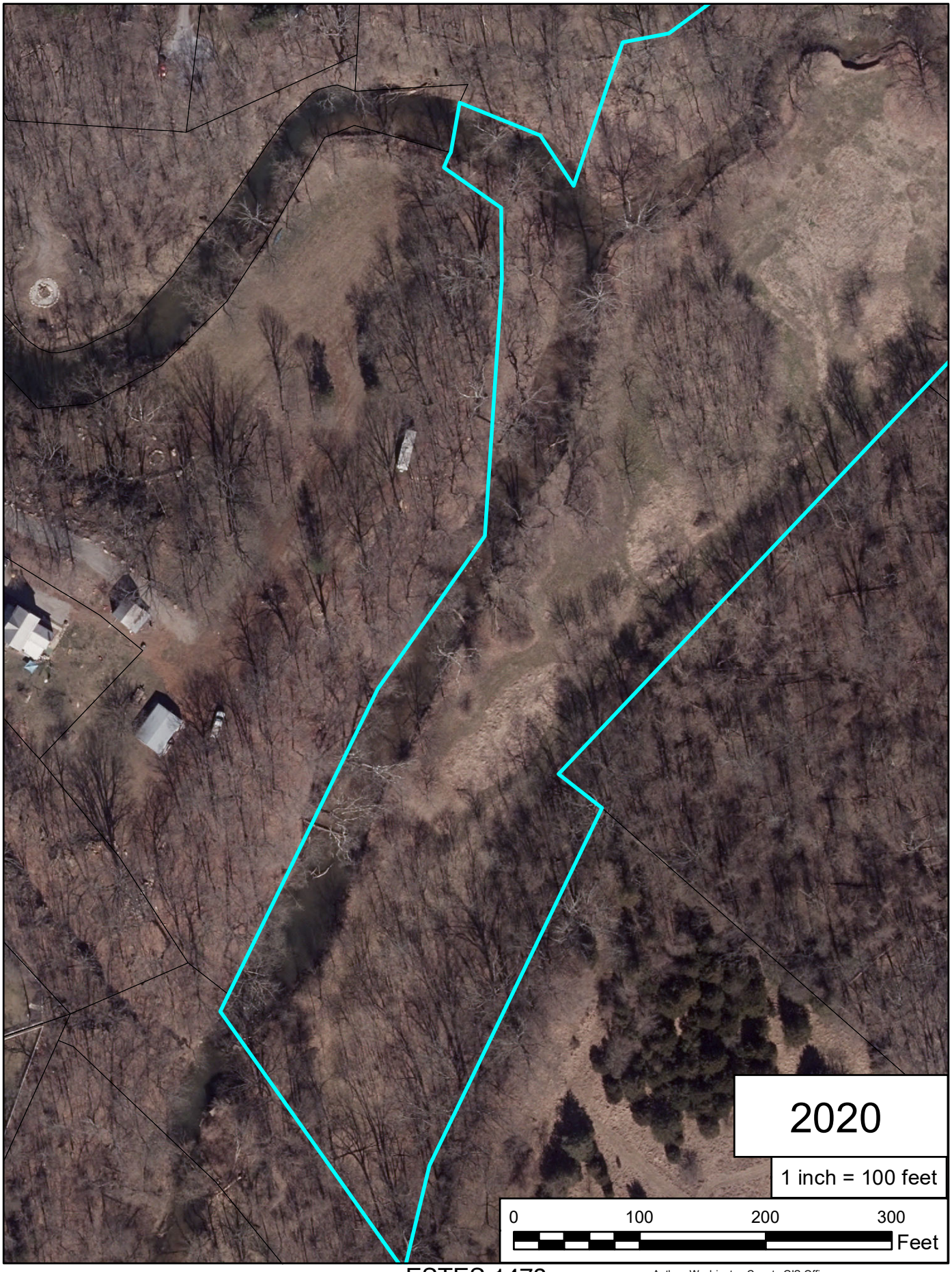


ESTES 1478

Author: Washington County GIS Office

ESTES 1478 with ESTES 1360 demonstratively overlayed by Justin Holder

Souther 2 lines as described in the OG boundary line

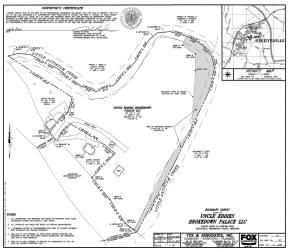
Northern 2 lines as described in the OG boundary line

Mr. frederick's "Deviation from Recorded title and the OG Boundary at the Northern 2 lines

See Exhibit 2 - Estes 0311 Stake in middle of creek and page below.

November 23rd, 2021 Deposition of Plaintiff Benjamin Estes C-21-CV-20-000430

Q. Do you know where that stake is?
A. I don't know where it is right now, no, but **I know where the location of that is, yes.**
Q. **Is that, generally, Antietam Creek?**
A. **Yes, probably.**
Q. Okay. **Mr. Frederick set that stake there for you in November or October, before you filed this lawsuit, is that correct?**
A. **Not Mr. Frederick, but his crew, yes.**
Q. So you hadn't had any other opinions of title. Mr. Frederick comes out. You ask him to set a stake. He sets a stake in the middle of Antietam Creek?
A. Okay. What is the question?
Q. He writes a letter that says there is no discrepancy of the boundary being in the creek on the southern two lines. **Do you disagree with the location of this survey stake Mr. Frederick set?**
A. **No. He set that**, but I don't know who drew that red line in there or what that red line represents.
Deposition Benjamin Estes 11-23-21 p.157:12 - 158:6



Q. Again, in this picture, this is a stake that Mr. Frederick set?
A. Yes.
Q. And would you say that this red line is fairly straight?
A. I don't know what that lines are or who drew it there. I know Fred Frederick didn't draw the line.
Q. I didn't ask you that. Does the line look straight to you, sir?
A. Sure, it looks straight.
Q. Is there water on both sides of the line?
A. Of that line as it is drawn, yes.
Deposition Benjamin Estes 11-23-21 p.158:23 - 159:9

Q. Okay. Is this the same stake as not the previous picture, but the one before that center of the creek?
A. That appears to be that stake, sir.
Q. Would you say this is looking north instead of south?
A. Yes, north, northwest maybe. I can't tell.
Q. And this is the stake that Mr. Frederick's crew placed?
A. Correct. I don't know what that red line is, again.
Q. It's demonstrative, sir.
Deposition Benjamin Estes 11-23-21 p.159:24 - 160:12

JOSEPH GREENWALD & LAAKE, PA

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May 11, 2022

Via MDEC
Circuit Court for Washington County, Maryland
24 Summit Avenue
Hagerstown, Maryland 21740

Re: *Benjamin Estes v. Justin Holder, et al.*, Case No. c-21-cv-20-000430

Dear Judge:

Pursuant to the Case Management Order that was entered on September 20, 2021, Plaintiff Benjamin Estes submits this request to file a Motion to Strike the Motion for Summary Judgment as to Count VI that was filed on May 7, 2022.

Defendant Justin Holder has failed to abide by the Court's Case Management Order. The Case Management order provides that "each party shall be permitted to file a single dispositive motion without leave of court, encompassing all claims for which it seeks dispositions prior to trial, to be filed on or before the June 21, 2022 motions deadline." The Case Management order requires that

> [I]n order to promote the just, speedy and inexpensive resolution of this case, no substantive motions (such as motions to amend the pleadings **or case dispositive motions)**...shall be filed unless the party wishing to file such a motion first serves on all parties and file with the Court a letter (not to exceed two pages, single spaced) containing a brief description of the planned motion and a concise summary of the factual and legal support for said motion, and the Court issues an order permitting the filing of the motion.

(Emphasis added).

Defendant Holder filed a Motion for Summary Judgment as to Count VI on May 7, 2022 without first filing a letter providing a description of the planned motion and getting the Court's permission to file.

Plaintiff had requested in June 2021 that the Court issue a Case Management Order to address the onslaught of filings by Defendant Holder and serve as a gatekeeper to limit Holder's ability to inundate the Court and parties with repeated, frivolous motions and filings. Holder previously filed a motion for summary judgment as to Count VI (ejectment), which the Court

denied on May 19, 2021, as well as a number of other motions for summary judgment before the Case Management Order was entered.

The Court Management Order was entered for a reason: to promote just, speedy, and inexpensive resolution of this case. Holder should not be permitted to completely disregard the Order.

Plaintiff requests permission from the Court to file a Motion to Strike the Motion for Summary Judgment.

Very truly yours,

JOSEPH, GREENWALD & LAAKE, P.A.

By: /s/
Timothy F. Maloney

cc: Robert Kline, III, Esq.
Talley Hollings-Scroggs Kovacs, Esq.
Emily Vainieri, Esq.
Matthew Ruble, Esq.
Brandy Peeples, Esq.
Justin Holder

IN THE CIRCUIT COURT OF MARYLAND FOR WASHINGTON COUNTY

BENJAMIN ESTES	*	
	*	CASE NO.: C-21-CV-20-000430
Plaintiff	*	
v.	*	Consolidated by August 20th, 2021 Order
	*	
JUSTIN HOLDER, Et Al	*	CASE NO.: C-21-CV-21-000130
	*	
Defendant(s)	*	

* *

LINE - Dispositive Motions

COMES NOW Defendant, Justin Holder, in Proper Person, and files this Line - Dispositive Motion (Case Management Order), and states herein:

The Case Management Order was crystal clear when the Honorable Court:

> ORDERED, that each party shall be permitted to file a single dispositive motion without leave of court, encompassing all claims for which it seeks disposition prior to trial, to be filed on or before the June 21, 2022 motions deadline; and it is further

and the Defendant has complied in filing his Motion for Summary Judgement - Ejectment.

1. The Defendant challenges the Plaintiff to find Grounds and Authorities in support of a Motion to Strike a Motion, as is required by Rule 2- 311(c).
2. The Plaintiff baldly asserts the Defendants Motion for Summary Judgement - Ejectment is frivolous. Why not file the same opposition with the same sham affidavit falsely claiming predecessor tacking as was done prior, instead of a letter and Motion?
3. The Plaintiff has lied and placed a fraud upon the Court, perjuring himself in his pleadings at ¶¶ 29-31 & 35 of his 2nd Amended Complaint and affidavit of predecessor adverse possession. The Plaintiff failed to produce any evidence of predecessor adverse possession in discovery. As a matter of law the Plaintiff's suit in ejectment must fail.
4. The Plaintiff request the Court deny the Defendant his right to due process, because Plaintiff has no meritorious opposition to provide to the Dispositive Motion.

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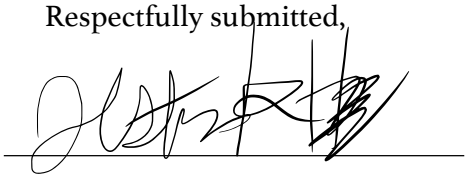
holder2004@Gmail.com

Respectfully submitted,

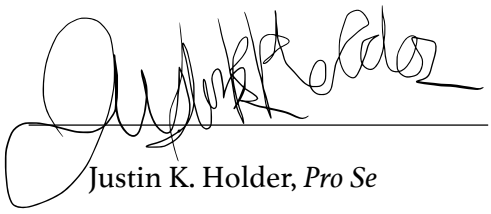


Justin K. Holder, *Pro Se*
308 West Chapline Street
Sharpsburg, Maryland 21782
(240) 356-2008

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of May, 2021, a copy of the foregoing Line - Dispositive Motions was served via the MDEC system to:

Timothy Maloney, Esq.
Brendan Callahan, Esq.,
Brandy Peeples, Esq.,
Robert Kline, Esq.,
Justin Holder, *Pro Se*



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IN THE CIRCUIT COURT OF MARYLAND FOR WASHINGTON COUNTY

BENJAMIN ESTES	*	
Plaintiff	*	
v.	*	
	*	CASE NO.: C-21-CV-20-000430
JUSTIN HOLDER, Et Al	*	
Defendant(s)	*	

* *

MOTION TO ALTER OR AMEND JUDGEMENT DENYING JUSTIN HOLDER's MOTION FOR SUMMARY JUDGEMENT - COUNT VI - EJECTMENT

COMES NOW Defendant, Justin Kyle Holder, in proper person and files this Motion to Alter or Amend Judgement denying Justin Holder's Motion for Summary Judgement - Count VI - Ejectment, in accordance with Rule 2-535, and for reasons states:

OVERVIEW - DISPOSITIVE MOTIONS and DUE PROCESS

1. On April 27th, 2021 the Defendant Justin Holder examined Expert Surveyor Frederic Frederick (Mr. "Frederick") in the instant case.

2. On April 27th, 2021 Mr. Frederick conceded that the he deviated from the title lines of the shared boundary as described in the instant complaint.

3. On April 28th, 2021, realizing that Plaintiff could not prove his title, the Defendant filed a Motion for Summary Judgement as to Count VI Ejectment.

4. On May 6th, 2021 the Plaintiff Amended his complaint with new allegations of predecessor adverse possession, and filed an opposition to the aforementioned April 28th, 2021 Motion for Summary Judgement Count VI - Ejectment. In aforesaid Opposition the Plaintiff conceded he could not produce a claim of title superior to the Defendants and relied on predecessor adverse possession to maintain his claim.

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5. On May 6th, 2021, the Defendant immediately sent targeted discovery to the Plaintiff related to the predecessor adverse possession. The Plaintiff begged for a protective order from said discovery and the Honorable Mark Boyer granted said protective order.

6. On May 27th, 2021 Honorable Daniel Dwyer signed a scheduling order that ORDERED a "cut off Date" of "All dispositive Motions due" on "June 21st, 2022"; and "Motions hearing date" of "August 2nd, 2022", see ***Exhibit 1 - Scheduling Order***.

7. On September 20th, 2021 Honorable Andrew Wilkinson signed a case management order that "ORDERED, that **each party shall be permitted** to file a single dispositive motion **Without leave of court**, encompassing all claims for which it seeks disposition **prior to trial**, to be filed on **or before** the June 21, 2022 motions deadline;"

8. On March 22, 2022 discovery closed in the instant case. The Plaintiff has failed to produce ANY evidence of predecessor adverse possession and John Dowling, Esq. (Plaintiff's rebuttal Expert) has unambiguously conceded the Plaintiff can not produce a superior claim of title, see May 7th, 2022 MSJ - Ejectment at p. 4.

9. In abeyance of the September 20th, 2021 case management order, in accordance with the May 27th 2021 Scheduling Order, after the March 22nd, 2022 close of discovery and having found no genuine dispute of material fact that the Plaintiff a) can not make a superior claim to title or b) produce ANY evidence of predecessor adverse possession; the Defendant filed his May 7th, 2021 Dispositive Motion[1] as to Count VI - Ejectment.

10. On May 11th, 2022 the Plaintiff filed correspondence requesting (with no Grounds or Authorities) the Court strike the May 7th, 2022 Dispositive Motion, and thereby deny

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[1] In deciding the Defendant's May 7th, 2022 Dispositive Motion in favor of the Defendant, Count's I through IV would also be moot by default. Judicial economy would be served by leaving only Count V - Quiet Title claim to the property East of the Title line at issue to decide at trial.

Defendant his due process[2] granted to the Defendant on September 20th, 2021 that "each party shall be permitted" to file a dispositive Motion to be heard at August 2nd, 2022 Dispositive Motions hearing. The case record reflects the Defendant has not filed any other dispositive motions after the September 20th, 2021 case management order.

11. The Court can not refute that, on May 17th, 2022 Honorable Andrew Wilkinson signed an Order that *inter alia* stated "having determined there is no good cause upon which the Motion for Summary Judgment could be granted" denied the **UNOPPOSED** May 7th, 2022 Dispositive Motion (the "May 17th, 2022 Order"); as a matter of law.

THE RECORD REFLECTS NO GENUINE DISPUTE OF MATERIAL FACT

12. The fact(s) that the Plaintiff does not hold ANY title and can not produce ANY evidence of predecessor adverse possession to the property the Defendants are in possession of is absolutely the only material fact(s) relevant to Count VI - Ejectment.

13. The Plaintiff, having filed no Opposition or otherwise sufficient evidence dispositive of Defendant's affidavit and having no hearing on the Motion on August 2nd, 2022; leaves the record in the instant case devoid of any Genuine Dispute of Material Fact.

GROUNDS AND AUTHORITIES - SUMMARY JUDGEMENT

"This case requires us to review the Circuit Court's grant of summary judgment in favor of [Plaintiff Estes]. We consider, *de novo,* first, **whether a material fact was placed in**

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[2] Plaintiff can not make any meritorious opposition to the May 7th, 2022 Dispositive Motion as his experts have conceded Plaintiff does not hold any claim to title and relies on adverse possession for his claim. Plaintiff has failed to produce ANY evidence in discovery of predecessor adverse possession and has only occupied the property for 10 years. The Plaintiff lied to the Court in his Complaint and affidavit on May 6th, 2021 and is caught red handed.

genuine dispute, thus requiring a trial, and, second, if trial by a fact-finder is not required, **whether the Circuit Court was legally correct in granting summary judgment**. *Livesay v. Baltimore County,* 384 Md. 1, 9, 862 A.2d 33, 38 (2004) (citing *Walk v. Hartford Cas. Ins. Co.,* 382 Md. 1, 14, 852 A.2d 98, 105 (2004)).

The standard for reviewing the grant of summary judgment is well-settled in Maryland:

> Maryland Rule 2-501 indicates that a motion for summary judgment is appropriate `on all or part of an action on the ground that there is no genuine dispute as to any material fact and that the party is entitled to judgment as a matter of law.' A motion for summary judgment may be supported by affidavit. When reviewing the grant or denial of a motion for summary judgment we must determine whether a material factual issue exists, and all inferences are resolved against the moving party. `[E]ven where the underlying facts are undisputed, if those facts are susceptible of more than one permissible inference, the choice between those inferences should not be made as a matter of law, but should be submitted to the trier of fact.' The function of a summary judgment proceeding is not to try the case or to attempt to resolve factual disputes but to determine whether there is a dispute as to material facts sufficient to provide an issue to be tried. A `material fact' is one which will somehow affect the outcome of the case.
>
> An appellate court reviewing a summary judgment examines the same information from the record and determines the same issues of law as the trial court. We are often concerned with whether a dispute of material fact exists when reviewing the grant of a summary judgment motion. We recently reiterated the standard of review for a trial court's grant or denial of a motion for summary judgment in *Myers v. Kayhoe,* 391 Md. 188, 892 A.2d 520 (2006):
>
> `**The question of whether a trial court's grant of summary judgment was proper is a question of law subject to *de novo* review on appeal.** *Livesay v. Baltimore,* 384 Md. 1, 9, 862 A.2d 33, 38 (2004). In reviewing a grant of summary judgment under Md. Rule 2-501, **we independently review the record to determine whether the parties properly generated a dispute of material fact and, if not, whether the moving party is entitled to judgment as a matter of law.** *Id.* at 9-10, 862 A.2d at 38. We review the record in the light most favorable to the nonmoving party and construe any reasonable inferences that may be drawn from the facts against the moving party.' *Id.* at 10, 862 A.2d at 38.

Id. at 203, 892 A.2d at 529.

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United Servs. Auto. Ass'n v. Riley, 393 Md. 55, 65-67, 899 A.2d 819, 825-826 (2006) (some internal citations omitted)." [Emphasis Added] *Haas v. Lockheed Martin*, 914 A.2d 735, 396 Md. 469 (2007). See also *Grimes v. Kennedy Krieger Institute, Inc*., 782 A.2d 807, 366 Md. 29 (2001).

"'In reviewing a grant of a summary judgment, we are first concerned with whether a genuine dispute of material fact exists' and then whether the movant is entitled to summary judgment as a matter of law. *Williams v. Mayor & City Council of Baltimore,* 359 Md. 101, 113, 753 A.2d 41, 47 (2000); *Hartford Ins. Co. v. Manor Inn of Bethesda, Inc.,* 335 Md. 135, 144, 642 A.2d 219, 224 (1994); *Gross v. Sussex, Inc.,* 332 Md. 247, 255, 630 A.2d 1156, 1160 (1993); *Beatty v. Trailmaster Prods., Inc.,* 330 Md. 726, 737, 625 A.2d 1005, 1011 (1993); *Arnold Developer, Inc. v. Collins,* 318 Md. 259, 262, 567 A.2d 949, 951 (1990); *Bachmann v. Glazer & Glazer, Inc.,* 316 Md. 405, 408, 559 A.2d 365, 366 (1989); *King v. Bankerd*, 303 Md. 98, 110-11, 492 A.2d 608, 614 (1985). "'A material fact is a fact the resolution of which will somehow affect the outcome of the case.' *King,* 303 Md. at 111, 492 A.2d at 614 (citing *Lynx, Inc. v. Ordnance Prods., Inc.,* 273 Md. 1, 327 A.2d 502, 509 (1974)). '[A] dispute as to facts relating to grounds upon which the decision is not rested is not a dispute with respect to a *material* fact and such dispute does not prevent the entry of summary judgment.' *Salisbury Beauty Schs. v. State Bd. of Cosmetologists,* 268 Md. 32, 40, 300 A.2d 367, 374 (1973)". *Id*

"Concerning summary judgment, Maryland Rule 2-501(e) provides: `**The court shall enter judgment in favor of or against the moving party if the motion and response show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law.**' In determining whether a party is entitled to judgment under this rule, the court must view the facts, including all inferences, in the light most favorable to the opposing party. *Beard v. American Agency,* 314 Md. 235, 246, 550 A.2d 677 (1988); *Kramer v. Bally's Park Place,* 311 Md. 387, 389, 535 A.2d 466

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(1988); *Liscombe v. Potomac Edison Co.,* 303 Md. 619, 621-22, 495 A.2d 838 (1985). The trial court will not determine any disputed facts, but rather makes a ruling as a matter of law. *Scroggins v. Dahne,* 335 Md. 688, 691, 645 A.2d 1160 (1994); *Southland Corp. v. Griffith,* 332 Md. 704, 712, 633 A.2d 84 (1993); *Beatty v. Trailmaster,* 330 Md. 726, 737, 625 A.2d 1005 (1993). **The standard of appellate review, therefore, is whether the trial court was legally correct.** *See, e.g., Southland, supra,* 332 Md. at 712, 633 A.2d 84." [Emphasis Added] *Baltimore Gas & Electric Co. v. Lane,* 338 Md. 34, 42-43, 656 A.2d 307, 311 (1995), overruled on other grounds by *Baltimore Gas & Electric Co. v. Flippo*, 348 Md. 680, 705 A.2d 1144 (1998); see also *Dobbins v. Washington Suburban Sanitary Comm'n*, 338 Md. 341, 344, 658 A.2d 675, 676-77 (1995).

BALD ALLEGATIONS and HEARSAY IN THE PLEADINGS

There is no Affidavit or testimony in the record to contradict the facts placed in the record by the Defendant in his May 7th, 2022 Dispositive Motion, affidavit and deposition testimony. The Plaintiff's Pleadings while under oath, are not under "personal knowledge" required by the rules and law to defeat a Motion for Summary Judgement, see Rule 2-501.

¶29 of the Second Amended Complaint states: "Notwithstanding Plaintiff's **clear record title** to the Estes Property, including the Disputed Property, **even if the Shared Boundary Line was not as indicated on the plats**, Plaintiff and his predecessors would have **established title to the Disputed Property by adverse possession over a period of at least 25 years**, and likely longer." [Emphasis Added]. In the accompanying affidavit and deposition testimony included in the May 7th, 2022 Dispositive Motion, is undisputed that: a) Plaintiff DOES NOT HOLD "clear record title" and "the Shared Boundary Line was not as indicated on the plats" and b) Plaintiff's predecessor DID NOT "establish[ ] title to the Disputed Property by adverse possession over a period of at least 25 years." The Plaintiff failed to prove the bald allegations at ¶¶ 31 & 35 of the Second Amended Complaint in

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discovery as stated in the Defendant's Affidavit in support of the May 7th, 2022 Dispositive Motion. ¶33 of the Second Amended Complaint contains inadmissible hearsay evidence about what "Maxwell Hope[Plaintiff's alleged predecessor] informed Plaintiff" of and is not sufficient to create a genuine dispute of material fact per the rules and law. The Second Amended Complaint is verified, but not under an oath of personal knowledge[3] and therefore is insufficient under the rules to defeat a Motion for Summary Judgment. The clear and undisputed record in the instant case indicates the Plaintiff by failing to oppose the May 7th, 2022 Dispositive Motion did not create a Genuine Dispute of Material Fact. Therefore the Court's decision to deny the May 7th, 2022 Dispositive Motion was so as a matter of law, and not one of fact. This decision will be reviewed *de novo*.

---

[3] "Maryland Rule 2-501(c) requires an affidavit in support of or in opposition to a motion for summary judgment to be on **personal knowledge**. A statement based only on information and belief does not suffice as an affidavit, even if under oath. *Fletcher v. Flournoy,* 198 Md. 53, 81 A.2d 232 (1951), *cert. denied,* 343 U.S. 917, 72 S.Ct. 649, 96 L.Ed. 1331 (1952); *White v. Friel,* 210 Md. 274, 123 A.2d 303 (1956). Rule 2-501(a) requires a motion for summary judgment to be supported by an affidavit or other statement under oath only if the motion is filed before the day on which the adverse party's initial pleading or motion is filed, and Rule 2-501(b) requires that a response be supported by affidavit or other statement under oath only when the motion is supported by affidavit or other statement under oath and the respondent desires to controvert a fact contained in the affidavit or statement under oath filed in support of the motion.

As Judge Niemeyer and Ms. Schuett point out, this follows the broader mandate of Rule 2-311(d), requiring *any* motion or response that is based on facts not contained in the record or in papers filed in the proceeding to be supported by affidavit. *PAUL V. NIEMEYER AND LINDA M. SCHUETT*, MARYLAND RULES COMMENTARY 331 (2d ed.1992). The particular language in Rule 2-501 simply recognizes the fact that, if a motion for summary judgment is filed before the adverse party's initial pleading is filed, there is no record, and thus nothing to supplant the need for an affidavit or other statement under oath.

The effective motion for summary judgment in this case was filed (or renewed) after both sides had filed various pleadings and motions, so a record of sorts did exist. Nonetheless, at least to the extent that the assertions contained in the purported affidavits were not otherwise in the record or in other papers previously filed and sought to establish facts that were not accepted by the opposing party, an affidavit in proper form was required by Rule 2-311(d). Except for one supplementary affidavit, each of the "affidavits" filed by or on behalf of either party, were stated to be on information and belief; none of them, therefore, were legally sufficient as affidavits." Footnote 5 *Post v. Bregman*, 707 A.2d 806, 349 Md. 142 (1998).

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CONCLUSION

WHEREAS, the fact that Plaintiff can not produce a superior claim to title or a right of possession by means of adverse possession are "material facts" to Count VI - Ejectment;

WHEREAS, there is NO GENUINE DISPUTE of the aforesaid "material facts" by way of admissible and personal knowledge contained in the record;

WHEREAS, the Defendant is entitled to Summary Judgement as a matter of law;

WHEREAS, the Court has clearly erred in denying the May 7th, 2022 Dispositive Motion as a matter of law, and not as a dispute of fact.[4]

WHEREFORE, the Defendant kindly and respectfully request the Court revise its May 17th, 2022 Order denying Summary Judgement until Plaintiff can file opposition and parties can be heard at the August 2nd, 2022 Motions hearing per the Scheduling Order.

Respectfully submitted,

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[4] On May 17th, 2022 the Honorable Court denied this Defendant's Dispositive Motion which included an affidavit and testimony of Plaintiff's own Expert that proved there was no GENUINE DISPUTE of MATERIAL FACT. The record reflects that there was no genuine dispute of Material Fact because the May 7th, 2022 Dispositive Motion was unopposed and there was no hearing. The Honorable Court's decision to deny the Motion will be reviewed *de novo* as a matter of law, unless the Honorable Court would decide to clarify and state what genuine dispute of Material Fact exist in the record it relied on in denying the May 7th, 2022 Dispositive Motion. The Plaintiff is now stuck with the record the Honorable Court has made in regards to the May 7th, 2022 Dispositive Motion. The Plaintiff can not and will not produce any additional admissible facts in dispute at trial and it will be obvious and known the Plaintiff maintained Counts I through IV and VI in bad faith with no justification. This is sanctionable behavior under Rule 1-341 as is reflected in the records of the case.

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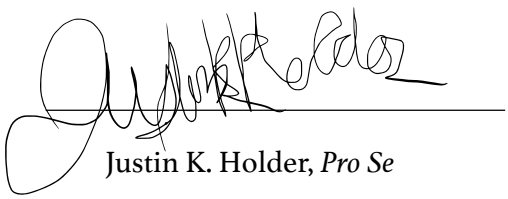
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of May 2022, a copy of the foregoing Motion to Alter or Amend Judgement denying Justin Holder'sMotion for Summary Judgement - Count VI - Ejectment was served via the MDEC system to :

Timothy Maloney, Esq.,
Talley Kovacs, Esq.,
Peter Rogers, Esq.,
Brendan Callahan, Esq.,
Brandy Peeples, Esq.,
Robert Kline, Esq.,
Justin Holder, *Pro Se;*



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E-FILED Washington Circuit Court 5/27/2021 2:50 PM System System
E-FILED; Washington Circuit Court
Docket: 5/27/2021 2:50 PM; Submission: 5/27/2021 2:50 PM

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

BENJAMIN ESTES	*	
Plaintiff	*	
VS.	*	CASE NO. C-21-CV-20-000430
JUSTIN HOLDER, et al.	*	
Defendant	*	

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SCHEDULING ORDER

It is **ORDERED** by the Circuit Court for Washington County that a trial by COURT is scheduled for October 4, 5 and 6, 2022 at 9:30 a.m., and is estimated to require three (3) day(s); it is further

ORDERED that hearing and cut-off dates are as follows:

August 23, 2021	Additional parties to be joined
July 21, 2021	Plaintiff's expert witnesses identified
October 21, 2021	Defendant's expert witnesses identified
November 22, 2021	Plaintiff's rebuttal expert
January 21, 2022	Notice required by Maryland Rule 2-504.3(b) regarding computer-generated evidence
March 21, 2022	Discovery to be completed
April 21, 2022	Amendments as of right due
June 21, 2022	All dispositive motions due
August 2, 2022	Motion hearing date
September 9, 2022	10:30 a.m. settlement/pre-trial conference

Entered: Clerk, Circuit Court for
Washington County, MD
May 27, 2021

It is further **ORDERED** no later than fourteen (14) days prior to the trial, counsel shall file with the Court a pre-trial statement in accordance with Maryland Rule 2-504.2(b) as well as the following:

a) all motions in limine;
b) any proposed voir dire questions; and
c) any proposed special verdict sheet;

it is further **ORDERED** this matter is referred to one (1) session of mediation, being two (2) hours, with a mediator/facilitator having the discretion to require the parties to attend a second session of mediation, also being two (2) hours; it is further

ORDERED that the parties are hereby referred to the following court-appointed mediator:

Honorable Ann S. Harrington
Circuit Court for Montgomery County
50 Maryland Avenue
Rockville, Maryland 20850
P-240-777-9389
aharrinton@mcccourt.com

it is further **ORDERED** that the mediator/facilitator shall schedule the first mediation session within forty-five (45) days of this Order; it is further

ORDERED that sixty (60) days prior to the scheduled trial date the mediation sessions shall be completed; it is further

ORDERED that all mediation sessions shall take place in Frederick/Washington County unless the parties shall otherwise agree; it is further

ORDERED that the parties shall compensate the mediator/facilitator at the rate of $200.00 per hour for the first two-hour session, split equally among the plaintiff(s) and the defendant(s); it is further

ORDERED that once a mediation session is scheduled, the parties must provide 24 hours' notice to the mediator/facilitator to postpone or cancel the mediation session. Failure to provide the mediator/facilitator with such notice will result in the parties compensating the mediator/facilitator for the missed session; it is further

ORDERED that the parties, the parties' counsel, and insurance adjustors with the authority to settle this matter, if any, shall appear at both the mediation sessions and are to make good faith efforts to settle this matter; it is further

ORDERED that the parties and the mediator/facilitator shall notify this Court immediately if an agreement has been reached as a result of mediation, or if no agreement has been reached; it is further

ORDERED that the parties or the parties' counsel have thirty (30) days from the date of this Order to file with this Court a written objection to mediation pursuant to Rule 17-103 or to request a specific mediator/facilitator; and it is further

ORDERED that upon settlement or dismissal it is the responsibility of counsel for the plaintiff to notify not only the Clerk of Court, the Mediator/facilitator and also the Assignment Clerk (240-313-2540) of such settlement or dismissal.

5-27-21
Date

Daniel P. Dwyer
Administrative Judge

CC: Brendan Callahan, Esq.
Aaron Drew Neal, Esq.
Mark W. Schweitzer, Esq.
Justin Holder

Matthew B. Ruble, Esq.
Talley Hollings-Scroggs Kovacs, Esq.
Robert L. Kline, III, Esq.
Hon. Ann S. Harrington (Mediator)
Assignment Office